

31A-35-101. Title.

This chapter is known as the "Bail Bond Act."

Amended by Chapter 173, 2004 General Session

31A-35-102. Definitions.

As used in this chapter:

- (1) "Bail bond" means a bond for a specified monetary amount that is:
 - (a) executed by a bail bond producer licensed in accordance with Section 31A-35-401; and
 - (b) issued to a court, magistrate, or authorized officer as security for the subsequent court appearance of the defendant upon the defendant's release from actual custody pending the appearance.
- (2) "Bail bond producer" means an individual who:
 - (a) is appointed by:
 - (i) a surety insurer that issues bail bonds; or
 - (ii) a bail bond surety company licensed under this chapter;
 - (b) is appointed to execute or countersign undertakings of bail in connection with judicial proceedings; and
 - (c) receives or is promised money or other things of value for engaging in an act described in Subsection (2)(b).
- (3) "Bail bond surety" means a person that:
 - (a) (i) is a bail bond surety company licensed under this chapter; or
 - (ii) a surety insurer; and
 - (b) issues bonds to secure:
 - (i) the release of a person from incarceration; and
 - (ii) the appearance of that person at court hearings.
- (4) "Bail bond surety company" means any sole proprietor or entity who:
 - (a) (i) is the agent of a surety insurer that issues a bail bond in connection with judicial proceedings;
 - (ii) pledges the assets of a letter of credit from a Utah depository institution for a bail bond in connection with judicial proceedings; or
 - (iii) pledges personal or real property, or both, as security for a bail bond in connection with judicial proceedings; and
 - (b) receives or is promised money or other things of value for a service described in Subsection (4)(a).
- (5) "Bail enforcement agent" means an individual who:
 - (a) is employed or contracted with to:
 - (i) enforce the terms and conditions of a defendant's release on bail in a civil or criminal proceeding;
 - (ii) apprehend a defendant or surrender a defendant to custody; or
 - (iii) both Subsections (5)(a)(i) and (ii); and
 - (b) receives or is promised money or other things of value for the services described in Subsection (5)(a).
- (6) "Board" means the Bail Bond Surety Oversight Board created in Section 31A-35-201.

(7) "Certificate" means a certificate of authority issued under this chapter to allow an insurer to operate as a surety insurer.

(8) "Indemnitor" means an entity or natural person who enters into an agreement with a bail bond surety to hold the bail bond surety harmless from loss incurred as a result of executing a bail bond.

(9) "Liquid assets" means financial holdings that can be converted into cash in a timely manner without the loss of principal.

(10) "Principal" means an individual or corporation whose performance is guaranteed by bond.

(11) "Surety insurer" means an insurer that:

(a) is licensed under Chapter 4, 5, or 14;

(b) receives a certificate under this title; and

(c) issues bail bonds.

(12) "Utah depository institution" is a depository institution, as defined in Section 7-1-103, that:

(a) has Utah as its home state; or

(b) operates a branch in Utah.

Amended by Chapter 298, 2003 General Session

31A-35-103. Exemption from other sections of this title.

Bail bond surety companies are exempted from:

(1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;

(2) Chapter 4, Insurance in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and 31A-4-107;

(3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section 31A-5-103, and

(4) Chapters 6, 6a, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 24, 25, 26, 27, 27a, 28, 29, 30, 31, 32, 33, and 34.

Amended by Chapter 309, 2007 General Session

31A-35-104. Rulemaking authority.

The commissioner shall by rule establish specific licensure and certification guidelines and standards of conduct for the business of bail bond surety insurance under this chapter.

Amended by Chapter 259, 2000 General Session

31A-35-201. Bail Bond Surety Oversight Board.

(1) There is created a Bail Bond Surety Oversight Board within the department, consisting of:

(a) the following seven voting members to be appointed by the commissioner:

(i) one representative each from four licensed bail bond surety companies;

(ii) two members of the general public who do not have any financial interest in

or professional affiliation with any bail bond surety company; and

(iii) one attorney in good standing licensed to practice law in Utah; and

(b) a nonvoting member who is a staff member of the insurance department appointed by the commissioner.

(2) (a) The appointments are for terms of four years. A board member may not serve more than two consecutive terms.

(b) The insurance commissioner shall, at the time of appointment or reappointment of a board member described in Subsection (1)(a), adjust the length of terms to ensure that the terms of board members are staggered so approximately half of the board is appointed every two years.

(3) A board member serves until:

(a) removed by the insurance commissioner;

(b) the member's resignation; or

(c) for a member described in Subsection (1)(a), the expiration of the member's term and the appointment of a successor.

(4) When a vacancy occurs in the membership of a board member described in Subsection (1)(a) for any reason, the replacement shall be appointed for the remainder of the unexpired term.

(5) The board shall annually elect one of its members as chair.

(6) Four voting members constitute a quorum for the transaction of business.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The commissioner, with a majority vote of the board, may remove any member of the board described in Subsection (1)(a) for misconduct, incompetency, or neglect of duty.

(b) The board shall conduct a hearing if requested by the board member described in Subsection (1)(a) that is to be removed.

(9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this chapter.

Amended by Chapter 286, 2010 General Session

31A-35-202. Board responsibilities.

(1) The board shall:

(a) meet:

(i) at least quarterly; and

(ii) at the call of the chair;

(b) make written recommendations to the commissioner for rules governing the following aspects of the bail bond surety insurance business:

(i) qualifications, applications, and fees for obtaining:

(A) a license required by this Section 31A-35-401; or

(B) a certificate;

- (ii) limits on the aggregate amounts of bail bonds;
 - (iii) unprofessional conduct;
 - (iv) procedures for hearing and resolving allegations of unprofessional conduct;
- and
- (v) sanctions for unprofessional conduct;
 - (c) screen:
 - (i) bail bond surety company license applications; and
 - (ii) persons applying for a bail bond surety company license; and
 - (d) recommend to the commissioner action regarding the granting, renewing, suspending, revoking, and reinstating of bail bond surety company license.
- (2) The board may:
- (a) conduct investigations of allegations of unprofessional conduct on the part of persons or bail bond sureties involved in the business of bail bond surety insurance;
- and
- (b) provide the results of the investigations described in Subsection (2)(a) to the commissioner with recommendations for:
 - (i) action; and
 - (ii) any appropriate sanctions.

Amended by Chapter 284, 2011 General Session

31A-35-301. The commissioner's authority.

- (1) The commissioner shall:
 - (a) make rules as necessary for the administration of this chapter;
 - (b) with information as provided by the board, issue or deny licensure under this chapter;
 - (c) take action regarding a license, including suspension or revocation; and
 - (d) maintain and publish a current list of licensed bail bond surety companies and producers.
- (2) The commissioner may establish fees for the issuance, renewal, and reinstatement of a bail bond surety company license in accordance with Section 63J-1-504.

Amended by Chapter 183, 2009 General Session

31A-35-401. Requirement for license or certificate of authority -- Process -- Fees -- Limitations.

- (1) (a) A person may not engage in the bail bond surety insurance business unless that person:
 - (i) is a bail bond surety company licensed under this chapter;
 - (ii) is a surety insurer that is granted a certificate under this section in the same manner as other insurers doing business in this state are granted certificates of authority under this title; or
 - (iii) is a bail bond producer licensed in accordance with this section.
- (b) A bail bond surety company shall be licensed under this chapter as an agency.

(c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.

(2) A person applying for a bail bond surety company license under this chapter shall submit to the commissioner:

(a) a completed application form as prescribed by the commissioner;

(b) a fee as determined by the commissioner in accordance with Section 31A-3-103; and

(c) any additional information required by rule.

(3) A fee required under this section is not refundable.

(4) A fee collected from a bail bond surety company shall be deposited in a restricted account created in Section 31A-35-407.

(5) (a) A bail bond surety company shall be domiciled in Utah.

(b) A bail bond producer shall be a resident of Utah.

(c) A foreign surety insurer that is granted a certificate to issue bail bonds may only issue bail bonds through a bail bond surety company licensed under this chapter.

Amended by Chapter 10, 2010 General Session

31A-35-401.5. Additional licensure requirements for a bail bond surety company.

(1) A person applying for licensure as a bail bond surety or agency for the first time shall, in addition to the requirements of Section 31A-35-401, provide proof that at least one principal of the bail bond surety or agency will have a minimum of 2,000 hours of experience working as an employee of a bail bond surety company as a licensed bail bond agent.

(2) The applicant shall provide proof of the experience claimed under Subsection (1), including providing:

(a) the exact details of the character and nature of the experience on a form provided by the department;

(b) a statement by each employer verifying the number of hours the applicant worked for the employer; and

(c) (i) federal income reporting forms that account for the wages for hours claimed or documented approval of the claimed hours by the insurance commissioner; and

(ii) the total of 2,000 hours may be proved in part by federal income reporting forms and in part by approval by the insurance commissioner.

(3) The burden of proving the hours of experience as required in this section is upon the applicant.

Amended by Chapter 253, 2012 General Session

31A-35-402. Authority related to bail bonds.

(1) A bail bond surety company may only issue bail bonds.

(2) In accordance with Section 31A-23a-205, a bail bond producer may not execute or issue a bail bond in this state without holding a current appointment from a

bail bond surety or current designation from a bail bond company.

(3) A bail bond surety may not allow any person who is not a bail bond producer to engage in the bail bond surety business on the bail bond surety's behalf, except for individuals:

(a) employed solely for the performance of clerical, stenographic, investigative, or other administrative duties that do not require a license as:

(i) a bail bond surety company; or

(ii) a bail bond producer; and

(b) whose compensation is not related to or contingent upon the number of bonds written.

Amended by Chapter 298, 2003 General Session

31A-35-403. Exemptions to licensing requirements.

This chapter does not affect the negotiation through a licensed producer for, or the execution or delivery of, an undertaking of bail executed by an insurer for its insured under a policy of automobile insurance or of liability insurance upon the automobile of the insured.

Amended by Chapter 298, 2003 General Session

31A-35-404. Minimum financial requirements for bail bond surety company license.

(1) (a) A bail bond surety company that pledges the assets of a letter of credit from a Utah depository institution in connection with a judicial proceeding shall maintain an irrevocable letter of credit with a minimum face value of \$300,000 assigned to the state from a Utah depository institution.

(b) Notwithstanding Subsection (1)(a), a bail bond surety company described in Subsection (1)(a) that is licensed under this chapter as of December 31, 1999, shall maintain an irrevocable letter of credit with a minimum face value of \$250,000 assigned to the state from a Utah depository institution.

(2) (a) A bail bond surety company that pledges personal or real property, or both, as security for a bail bond in connection with a judicial proceeding shall maintain:

(i) (A) a current financial statement:

(I) reviewed by a certified public accountant; and

(II) showing a net worth of at least \$300,000, at least \$100,000 of which is in liquid assets; or

(B) notwithstanding Subsection (2)(a)(i), if the bail bond surety company is licensed under this chapter as of December 31, 1999, a current financial statement:

(I) reviewed by a certified public accountant; and

(II) showing a net worth of at least \$250,000, at least \$50,000 of which is in liquid assets;

(ii) a copy of the applicant's federal income tax return for the preceding two years; and

(iii) for each parcel of real property owned by the applicant and included in net worth calculations:

- (A) a title letter; and
- (B) an appraisal dated not more than two years prior to the date of application.
- (b) For purposes of this Subsection (2), only real or personal property located in Utah may be included in the net worth of the bail bond surety company.
- (3) A bail bond surety company shall maintain a qualifying power of attorney issued by a surety insurer:
 - (a) if the bail bond surety company is the agent of the surety insurer; and
 - (b) the surety insurer:
 - (i) issues bail bonds;
 - (ii) is in good standing in its state of domicile; and
 - (iii) is granted a certificate to write bail bonds in Utah.
- (4) The commissioner may revoke the license of a bail bond surety company that fails to maintain the minimum financial requirements required under this section.
- (5) The commissioner may set by rule the limits on the aggregate amounts of bail bonds issued by a bail bond surety company.

Amended by Chapter 259, 2000 General Session

31A-35-405. Issuance of license -- Denial -- Right of appeal.

- (1) Upon a determination by the board that a person applying for a bail bond surety company license meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond surety company license.
- (2) (a) If the commissioner denies an application for a bail bond surety company license under this chapter, the commissioner shall provide prompt written notification to the person applying for licensure:
 - (i) stating the grounds for denial; and
 - (ii) notifying the person applying for licensure as a bail bond surety company that:
 - (A) the person is entitled to a hearing if that person wants to contest the denial; and
 - (B) if the person wants a hearing, the person shall submit the request in writing to the commissioner within 15 days after the issuance of the denial.
- (b) The department shall schedule a hearing described in Subsection (2)(a) no later than 60 days after the commissioner's receipt of the request.
- (c) The department shall hear the appeal, and may:
 - (i) return the case to the commissioner for reconsideration;
 - (ii) modify the commissioner's decision; or
 - (iii) reverse the commissioner's decision.
- (3) A decision under this section is subject to review under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 349, 2009 General Session

31A-35-406. Renewal and reinstatement.

- (1) (a) A license under this chapter expires annually on August 14. To renew its

license under this chapter, on or before July 15 a bail bond surety company shall:

- (i) complete and submit a renewal application to the department; and
- (ii) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

(b) A bail bond surety company shall renew its license under this chapter annually as established by department rule, regardless of when the license is issued.

(2) A bail bond surety company may apply for reinstatement of an expired bail bond surety company license within one year following the expiration of the license under Subsection (1) by:

- (a) submitting the renewal application required by Subsection (1); and
- (b) paying a license reinstatement fee established in accordance with Section 31A-3-103.

(3) If a bail bond surety company license has been expired for more than one year, the person applying for reinstatement of the bail bond surety license shall:

- (a) submit a new application form to the commissioner; and
- (b) pay the application fee established in accordance with Section 31A-3-103.

(4) If a bail bond surety company license is suspended, the applicant may not submit an application for a bail bond surety company license until after the end of the period of suspension.

(5) A fee collected under this section shall be deposited in the restricted account created in Section 31A-35-407.

Amended by Chapter 284, 2011 General Session

31A-35-407. Restricted account.

(1) There is created within the General Fund a restricted account known as the "Bail Bond Surety Administration Account."

- (2) (a) The account shall be funded from the fees imposed under this chapter.
- (b) The department shall deposit all fees collected under this part in the account.
- (c) The funds in the account shall be used by the department to administer this chapter.
- (d) The account shall earn interest, which shall be deposited in the account.

Enacted by Chapter 293, 1998 General Session

31A-35-501. Emergency action regarding a license.

(1) If the commissioner determines, based on an investigation, that the public health, safety, or welfare requires emergency action, the commissioner may order a summary suspension of a bail bond surety company license pending proceedings for revocation or other action.

- (2) The order described in Subsection (1) shall:
 - (a) state the grounds upon which the summary suspension is issued, including the charges made against the licensee; and
 - (b) advise the licensee of the right to an administrative hearing before the commissioner within 60 days after the summary suspension is ordered.

Amended by Chapter 259, 2000 General Session

31A-35-502. Notification of violation of chapter.

If the commissioner has reason to believe a person licensed as a bail bond surety company or a bail bond producer has violated this chapter, written notice shall be sent to that person, advising the person of:

- (1) the alleged violation;
- (2) the commissioner's authority to take action against the person's license;
- (3) the person's right to an administrative hearing under Title 63G, Chapter 4, Administrative Procedures Act; and
- (4) the period of time within which the hearing described in Subsection (3) shall be requested if the person requests a hearing.

Amended by Chapter 382, 2008 General Session

31A-35-503. Disciplinary action -- Hearing -- Appeal.

(1) Based on information the commissioner receives during a hearing described in Section 31A-35-502 regarding a person licensed as a bail bond surety company or bail bond producer, the commissioner may:

- (a) dismiss the complaint if the commissioner finds it is without merit;
- (b) fix a period and terms of probation best adopted to educate the person;
- (c) place the license on suspension for a period of not more than 12 months; or
- (d) revoke the license.

(2) The commissioner shall advise the person described in Subsection (1) in writing of:

- (a) the commissioner's findings based on the hearing; and
- (b) the person's rights of appeal under this chapter.

(3) (a) Unless the conditions of Subsection (3)(b) are met, if a bail bond surety company license is suspended or revoked under this chapter, a member, employee, officer, or director of that corporation may not:

- (i) be licensed as a bail bond surety company or bail bond producer; or
- (ii) be designated in any license to exercise authority under this chapter during the period of the suspension or revocation.

(b) Subsection (3)(a) does not apply if the commissioner determines upon substantial evidence that the member, employee, officer, or director:

- (i) was not personally at fault; and
- (ii) did not acquiesce in the matter on account of which the license was suspended or revoked.

Amended by Chapter 298, 2003 General Session

31A-35-504. Failure to pay bail bond forfeiture -- Grounds for suspension and revocation of bail bond surety license.

(1) As used in this section:

- (a) "Company" means a bail bond surety company.
- (b) "Judgment" means a judgment of bond forfeiture issued under Section

77-20b-104.

(2) (a) (i) A company shall pay a judgment not later than 15 days following service of notice upon the company from a prosecutor of the entry of the judgment.

(ii) A company may pay a bond forfeiture to the court prior to judgment.

(b) (i) A prosecutor who does not receive proof of or notice of payment of the judgment within 15 days after the service of notice to the company of a judgment shall notify the commissioner of the failure to pay the judgment.

(ii) The commissioner shall notify the company, by the most expeditious means available, of the nonpayment of the judgment.

(iii) The company shall satisfy the judgment within five business days after receiving notice under Subsection (2)(b)(ii). If the judgment is not satisfied at the end of the five days, the commissioner may suspend the company's license under Subsection (3).

(c) If notice of entry of judgment is served upon the company by mail, three additional days are added to the 15 days provided in Subsections (2)(a), (2)(b), and (2)(d).

(d) A prosecutor may not proceed under Subsection (2)(b) if a company, within 15 days after service of notice of the entry of judgment is served:

(i) files a motion to set aside the judgment or files an application for an extraordinary writ; and

(ii) provides proof that the surety has posted the judgment amount with the court in the form of cash, a cashier's check, or certified funds.

(e) As used in this section, the filing of the following tolls the time within which a company is required to pay a judgment if the motion or application is filed within 15 days after the day on which service of notice of the entry of a judgment is served:

(i) a motion to set aside a judgment; or

(ii) an application for extraordinary writ.

(3) The commissioner shall suspend the license of the company not later than five days following the company's failure to satisfy the judgment as required under Subsection (2)(b).

(4) If the prosecutor receives proof of or notice of payment of the judgment during the suspension period under Subsection (3), the prosecutor shall immediately notify the commissioner of the payment. The notice shall be in writing and by the most expeditious means possible, including facsimile or other electronic means.

(5) The commissioner shall lift a suspension under Subsection (3) within five days of the day on which all of the following conditions are met:

(a) the suspension has been in place for no fewer than 14 days;

(b) the commissioner has received written notice of payment of the unpaid forfeiture from the prosecutor; and

(c) the commissioner has received:

(i) no other notice of any unpaid forfeiture from a prosecutor; or

(ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that the unpaid forfeiture has been paid.

(6) The commissioner shall commence an administrative proceeding and revoke the license of a company that fails to meet the conditions under Subsection (5) within 60 days following the initial date of suspension.

(7) This section does not restrict or otherwise affect the rights of a prosecutor to commence collection proceedings under Subsection 77-20b-104(5).

Amended by Chapter 178, 2010 General Session

31A-35-601. Acts of producer or agent.

(1) As used in this section:

(a) "Bail recovery agent" means an individual employed by a bail enforcement agent to assist the bail enforcement agent regarding civil or criminal defendants released on bail by:

- (i) presenting a defendant for required court appearances;
- (ii) apprehending or surrendering a defendant to a court; or
- (iii) keeping the defendant under necessary surveillance.

(b) "Bail recovery apprentice" means an individual who:

(i) is employed by a bail enforcement agent; and

(ii) works under the direct supervision of that bail enforcement agent or under the direct supervision of a bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that do not require direct supervision.

(2) The acts or conduct of any bail bond producer or bail enforcement agent, bail recovery agent, or bail recovery apprentice who acts within the scope of the authority delegated to him by the bail bond surety, are considered to be the acts or conduct of the bail bond surety for which the bail bond producer or bail bond enforcement agent, bail recovery agent, or bail recovery apprentice is acting as agent.

(3) The acts or conduct of any bail bond producer or bail enforcement agent, bail recovery agent, or bail recovery apprentice who acts within the scope of the authority delegated to him by the bail bond producer are considered to be the acts or conduct of the bail bond producer for which the bail enforcement agent is acting as agent.

Amended by Chapter 298, 2003 General Session

31A-35-602. Place of business -- Records to be kept there.

(1) (a) A bail bond surety company shall have and maintain in this state a place of business:

- (i) accessible to the public; and
- (ii) where the bail bond surety company principally conducts transactions authorized by its bail bond surety company license.

(b) The address of the place of business described in Subsection (1)(a) shall appear upon:

- (i) the application for a bail bond surety company license; and
 - (ii) a bail bond surety company license issued under this chapter.
- (c) In addition to complying with Subsection (1)(b), a bail bond surety company shall register and maintain with the commissioner the following at which the commissioner may contact the bail bond surety company:

- (i) a telephone number; and

(ii) a business email address.

(d) A bail bond surety company shall notify the commissioner within 20 days of a change in the bail bond surety company's:

(i) place of business address;

(ii) telephone number; or

(iii) business email address.

(e) This section does not prohibit a bail bond surety company from maintaining the place of business required under this section in the licensee's residence, if the residence is in Utah.

(2) The bail bond surety company shall keep at the place of business described in Subsection (1)(a) the records required under Section 31A-35-604.

Amended by Chapter 284, 2011 General Session

31A-35-603. Collateral security.

(1) A bail bond producer may accept collateral security in connection with a bail transaction, if the collateral security is reasonable in relation to the face amount of the bail bond.

(2) (a) The collateral security described in Subsection (1) shall be received by the bail bond producer in the bail bond producer's fiduciary capacity.

(b) Before any judgment of forfeiture of bail, the bail bond producer shall keep the collateral separate and apart from any other funds or assets of the licensee.

(3) (a) Any collateral that is deposited with a bail bond producer or bail bond surety shall be returned to the person who deposited it within 10 days after the return is requested by the person who deposited it if:

(i) the bail bond has been exonerated; and

(ii) all fees owed to the bail bond producer or bail bond surety have been paid.

(b) A certified copy of the minute order from the court stating the bail or undertaking was ordered exonerated is prima facie evidence of exoneration or termination of liability.

(4) (a) If a bail bond producer accepts collateral, the bail bond producer shall give a written receipt for the collateral.

(b) The receipt required by Subsection (4)(a) shall include a fully detailed account of the collateral received.

(5) Upon return of collateral to the person who posted it, if any amount has been deducted by the bail bond surety or bail bond producer as expense, the bail bond surety or bail bond producer shall:

(a) include with the returned collateral an itemized statement of all expenses deducted from the collateral; and

(b) maintain a copy of the statement required by Subsection (5)(a) in the records of the bail bond surety or bail bond producer.

(6) If the bail bond secured by the collateral is forfeited and the bail bond producer or bail bond surety retains possession of the collateral in payment of the forfeiture or otherwise disposes of the collateral, the person retaining possession or disposing of the property shall maintain a written record of the collateral, including any disposition.

(7) (a) If a document that conveys title to real property is used as collateral in a bail bond transaction, the document shall state on its face that it is executed as part of a security transaction.

(b) If the document described in Subsection (7)(a) is recorded, the bail bond producer or the bail bond surety shall:

(i) execute a reconveyance of the property, executed so that the reconveyance can be recorded; and

(ii) promptly deliver the reconveyance document to:

(A) the person executing the original conveyance; or

(B) the heirs, legal representative, or successor in interest of the person described in Subsection (7)(b)(ii)(A).

Amended by Chapter 298, 2003 General Session

31A-35-604. Records.

(1) A bail bond producer shall maintain at the bail bond producer's place of business:

(a) records of all bail bonds the bail bond producer executes or countersigns, so the public may obtain all necessary information concerning those bail bonds for at least one year after the liability of the bail bond surety has been terminated; and

(b) any additional information the commissioner may reasonably require by rule.

(2) Records required to be maintained under Subsection (1) shall be available for examination by the commissioner or the commissioner's representatives during regular business hours.

(3) The bail bond surety company shall maintain for three years after receipt all records of any bail bond executed or countersigned by a bail bond producer appointed by the bail bond surety company.

Amended by Chapter 298, 2003 General Session

31A-35-605. Guarantors -- Agreement and enforcement.

(1) All agreements of persons to act as guarantor for a bail bond shall be in writing or reduced to writing as soon as possible after completion.

(2) When a person executes an agreement to act as a guarantor, the bail bond surety company or the bail bond producer shall deliver to that person a copy of the agreement promptly upon that person's execution of the agreement.

(3) A bail bond producer may not enforce any guarantor agreement without disclosing to the guarantor all collateral held by the bail bond producer indemnifying the bond to which the agreement relates, and the identity of each other guarantor.

Amended by Chapter 298, 2003 General Session

31A-35-606. Bail agreement prior to commission of offense prohibited.

A bail bond surety or bail bond producer may not enter into an agreement or arrangement with any person, guaranteeing or assuring in advance of the commission of any offense that bail will be furnished to that person or any other party if arrested.

Amended by Chapter 298, 2003 General Session

31A-35-607. Filing of forms -- Commissioner maintains files.

(1) (a) In accordance with Section 31A-21-201, only a bail bond surety company that meets the financial capacity requirements through the use of a letter of credit, personal property, or real property, or a surety insurer shall file with the commissioner a copy of each form the bail bond surety company or surety insurer uses in the bail bond surety business.

(b) A surety insurer filing shall comply with the following:

(i) a form shall be identified by a unique form number;

(ii) the surety insurer shall file a form on behalf of each bail bond surety company appointed to write on behalf of the surety insurer;

(iii) once a filing is filed with the commissioner, it is the responsibility of the surety insurer to verify that the bail bond surety company and its producers are using the correct form;

(iv) a bail bond surety company and its producers are prohibited from using a form that has not been filed by the surety insurer; and

(v) a bail bond surety company and its producers are prohibited from making changes to a form that is filed by the surety insurer.

(c) A bail bond surety company filing, for a bail bond surety company that meets the financial capacity requirements through the use of a letter of credit, personal property, or real estate, shall comply with the following:

(i) a form shall be identified by a unique form number;

(ii) once a filing is filed with the commissioner, it is the responsibility of the bail bond surety company to verify that its producers are using the correct form;

(iii) a bail bond producer is prohibited from using a form that has not been filed by the bail bond surety company; and

(iv) a bail bond producer is prohibited from making changes to a form that is filed by the bail bond surety company.

(2) A form described in Subsection (1) shall be filed 30 days before the form:

(a) is first used by the bail bond surety company or surety insurer; and

(b) is changed after it is filed under Subsection (2)(a).

(3) (a) The commissioner shall maintain and make available for public inspection a file regarding each bail bond surety company and each surety insurer.

(b) A bail bond surety company and surety insurer shall maintain a form required to be filed under this section in the office of the bail bond surety company or surety insurer.

Amended by Chapter 253, 2012 General Session

31A-35-608. Premiums and authorized charges.

(1) A bail bond surety or bail bond producer may not, in any bail transaction or in connection with that transaction, directly or indirectly, charge or collect money or other valuable consideration from any person except to:

(a) pay the premium on the bail at the rates established by the bail bond surety;

- (b) provide collateral;
 - (c) reimburse himself for actual expenses, as described in Subsection (2), incurred in connection with the bail bond transaction; or
 - (d) to reimburse himself, or to establish a right of action against the principal or any indemnitor, for actual expenses the bail bond surety or bail bond producer incurred:
 - (i) in good faith; and
 - (ii) which were by reason of breach by the defendant of any of the terms of the written agreement under which the undertaking of bail or bail bond was written.
- (2) (a) A bail bond surety may bring an action in a court of law to enforce its equitable rights against the principal and the principal's indemnitors in exoneration if:
- (i) a bail bond producer did not establish a written agreement; or
 - (ii) there is only an incomplete writing.
- (b) Reimbursement claimed under this Subsection (2) may not exceed the sum of:
- (i) the principal sum of the bail bond or undertaking; and
 - (ii) any reasonable expenses that:
 - (A) are verified by receipt;
 - (B) in total do not amount to more than the principal sum of the bail bond or undertaking; and
 - (C) are incurred in good faith by the bail bond surety, its producers, and employees by reason of the principal's breach.
- (3) This section does not affect or impede the right of a bail bond producer to execute undertaking of bail on behalf of a nonresident producer of the bail bond surety the bail bond producer represents.

Amended by Chapter 298, 2003 General Session

31A-35-701. Prohibited acts.

- (1) A bail bond producer or bail bond surety may not:
 - (a) solicit business in or about:
 - (i) any place where persons in the custody of the state or any local law enforcement or correctional agency are confined; or
 - (ii) any court;
 - (b) pay a fee or rebate or give or promise anything of value to any person in order to secure a settlement, compromise, remission, or reduction of the amount of any undertaking or bail bond;
 - (c) pay a fee or rebate or give anything of value to an attorney in regard to any bail bond matter, except payment for legal services actually rendered for the bail bond producer or bail bond surety;
 - (d) pay a fee or rebate or give or promise anything of value to the principal or anyone in the principal's behalf; or
 - (e) engage in any other act prohibited by the commissioner by rule.
- (2) The following persons may not act as bail bond producers and may not, directly or indirectly, receive any benefits from the execution of any bail bond:
 - (a) a person employed at any jail, correctional facility, or other facility used for the incarceration of persons;

- (b) a peace officer;
 - (c) a judge; and
 - (d) a trusty or prisoner incarcerated in any jail, correctional facility, or other facility used for the incarceration of persons.
- (3) A bail bond producer may not:
- (a) sign or countersign in blank any bail bond; or
 - (b) give the power of attorney to, or otherwise authorize anyone to, countersign in the bail bond producer's name to a bail bond.
- (4) A bail bond producer may not advertise or hold himself out to be a bail bond surety.
- (5) The following persons or members of their immediate families may not solicit business on behalf of a bail bond surety or bail bond producer:
- (a) a person employed at any jail, correctional facility, or other facility used for the incarceration of persons;
 - (b) a peace officer;
 - (c) a judge; and
 - (d) a trusty or prisoner incarcerated in any jail, correctional facility, or other facility used for the incarceration of persons.

Amended by Chapter 274, 2004 General Session

31A-35-702. Early surrender without cause.

- (1) The bail or bail bond premium shall be returned in full if a bail bond producer without good cause surrenders a defendant to custody before:
- (a) the time specified in the undertaking of bail or the bail bond for the appearance of the defendant; or
 - (b) any other occasion where the presence of the defendant in court is lawfully required.
- (2) As used in this section, "good cause" includes:
- (a) the defendant providing materially false information on the application for bail or a bail bond;
 - (b) the court's increasing the amount of bail beyond sound underwriting criteria employed by:
 - (i) the bail bond producer; or
 - (ii) the bail bond surety;
 - (c) a material and detrimental change in the collateral posted by:
 - (i) the defendant; or
 - (ii) a person acting on the defendant's behalf;
 - (d) the defendant changing the defendant's address or telephone number without giving reasonable notice to:
 - (i) the bail bond producer; or
 - (ii) the bail bond surety;
 - (e) the defendant commits another crime, other than a minor traffic violation, as defined by department rule, while on bail;
 - (f) failure by the defendant to appear in court at the appointed time; or
 - (g) a finding of guilt against the defendant by a court of competent jurisdiction.

Amended by Chapter 298, 2003 General Session

31A-35-703. Disciplinary action.

(1) A person found to be in violation of the statutes or rules governing the conduct of bail bond producers and bail bond sureties under this chapter is subject to:

(a) disciplinary action by the commissioner against that person's:

(i) license, if the person is a bail bond surety company or bail bond producer; or

(ii) certificate, if the person is a surety insurer; and

(b) imposition of civil penalties, as authorized under Title 31A, Chapter 2, Administration of the Insurance Laws.

(2) Penalties collected under this section shall be deposited in the restricted account created in Section 31A-35-407.

Amended by Chapter 298, 2003 General Session

31A-35-704. Submission of bail bond sureties and producers to jurisdiction of court.

By applying for and receiving a license or certificate to engage in the bail bond surety insurance business in accordance with this chapter, a bail bond surety or bail bond producer:

(1) submits to the jurisdiction of the court;

(2) irrevocably appoints the clerk of the court as agent upon whom any papers affecting the bail bond surety's or bail bond producer's liability on the undertaking may be served; and

(3) acknowledges that liability may be enforced on motion and upon notice as the court may require, without the necessity of an independent action.

Amended by Chapter 298, 2003 General Session